

**Selecting an Essential Health Benefits Benchmark that
Meets the Health Care Needs of People with HIV**

Comments to the Illinois Health Care Reform Implementation Council

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Submitted by John Peller, Vice President of Policy

Thank you for the opportunity to submit comments on the selection of a benchmark plan for an essential health benefits in Illinois. We appreciate the time and hard work the members of the Council and staff have spent researching this decision. The essential health benefits benchmark plan will have far-reaching implications for people with chronic diseases like HIV and every Illinoisan who will purchase health insurance through the health insurance exchange.

The mission of the AIDS Foundation of Chicago (AFC) is to lead the fight against HIV/AIDS and improve the lives of people affected by the epidemic. Founded in 1985 by community activists and physicians, AFC is a local and national leader in the fight against HIV/AIDS. We collaborate with community organizations to develop and improve HIV/AIDS services; fund and coordinate prevention, care, and advocacy projects; and champion effective, compassionate HIV/AIDS policy.

In 2014, tens of thousands of people living with HIV and AIDS will have access to insurance as newly covered childless adults or through the Health Benefit Exchange, many for the first time. But to be meaningful, coverage must include the full range of services that people living with HIV and AIDS need to stay healthy, including comprehensive prescription drug coverage, preventive services such as routine HIV testing, routine access to HIV-experienced medical providers and appropriate laboratory testing, chronic disease management services and mental health and substance abuse services. Such services are necessary to diagnose people with HIV early, maintain them in regular care and treatment, and realize the lifesaving benefits of HIV treatment. Further, because we now know effective HIV treatment prevents HIV transmission, comprehensive medical care for people living with HIV and AIDS has the potential to dramatically curb and even end the HIV epidemic in this country.

Overall, we believe either of the Blue Cross plans will meet the needs of people with HIV and chronic diseases. In fact, AFC offers one of the Blue Cross plans to our employees, and our

partner AIDS Legal Council of Chicago offers the other Blue Cross plan to their employees. While we have less direct knowledge of the other eight insurance plans that are being reviewed, the cost to the state of paying for state-mandated benefits that would be need to be added to the Federal Employee Health Benefits (FEHB) plans means the FEHB plans are not likely to be realistic options.

As the Council selects an EHB benchmark plan, we urge the members to consider the following recommendations.

The benchmark plan must guarantee adequate access to all prescription drugs in certain classes, such as antiretrovirals: We are extremely concerned that the U.S. Department of Health and Human Services (HHS) stated in the December 2011 Essential Health Benefits Bulletin that plans would not be required to cover “all or substantially all” medications in certain drug classes. Without such a requirement, people with HIV would be unable to obtain the two or more medications in the antiretroviral class that they need to successfully manage their HIV disease. People with HIV and other chronic diseases would be forced to obtain medications through a slow and cumbersome appeals process, or be denied them all together. This would be needlessly inefficient, worsen health outcomes and long-term health costs, and likely violate Affordable Care Acts prohibitions against discriminating against people with disabilities.

We urge the members of the Council to include in Illinois’ essential health benefits selection a requirement that all plans cover “all or substantially all” medications in certain classes of drugs, including HIV. Such a policy should be modeled after the Medicare Part D six protected classes mandate. This protection should be included when Illinois submits its EHB selection to the federal government at the end of September. Members of the Council should prioritize this requirement during EHB negotiations with the federal government.

Illinois has a fiscal and moral responsibility to propose to the federal government the strongest possible essential health benefits package that meets the medication needs of people with HIV and other chronic diseases. While we know from experience that both Blue Cross plans cover all HIV medications, that safeguard is not spelled out in the plan documents. We urge the Council to require all plans to restate the medication coverage mandate in their detailed plan descriptions.

The benchmark plan must ensure access to specialty care and services: The EHB benchmark must include protections and safeguards to ensure that people with HIV and other vulnerable populations have access to essential care and treatment. If HHS does not issue regulations

requiring coverage of specific services within the essential categories, we urge the state to ensure the availability of necessary health services, especially those that tend to be limited by insurers to discourage enrollment of sicker populations and limit access to essential care and treatment. These services include: comprehensive mental health and substance abuse services, specialty care providers, preventive services, rehabilitative and habilitative care, chronic disease management programs, and laboratory monitoring according to the standard of care for HIV disease and other conditions.

The EHB benchmark plan must protect against harmful benefit limits, medical necessity rulings, and utilization management practices: If HHS guidance and future EHB regulations fail to provide clear patient protections against dollar or visit limits on essential services, medical necessity determinations, and unduly burdensome prior authorization and utilization management practices that could result in discrimination against vulnerable populations, the state must act to ensure these protections are in place, clear, and usable prior to 2014. These practices must be based on the standard of care and not driven by cost. For example,

- Service limits are harmful to individuals with HIV infection and others with chronic conditions who rely on routine medical visits and laboratory monitoring to stay healthy and prevent disease progression.
- Unrestricted access to lifesaving medications without prior authorization requirements and other utilization controls is necessary to ensure access to the appropriate standard of care in the U.S.
- Protections must be in place to prevent insurance plans from making it too difficult to access specialists, for example by requiring higher co-payments for specialty care.

Finally, we urge the state to build strong and clear essential health benefit protections from the beginning. DOI or HHS should ensure that plans meet the non-discrimination mandates of the ACA from the get-go and not rely on a slow, cumbersome and complicated appeals process to work out the details of benefits once the plans roll out.

We have great hope that the essential health benefit plan that the state selects will meet the health care needs of people with HIV. We look forward to continuing to work with the Council members of the next year and beyond as we work towards our shared goal of making the ACA a success.

For more information, contact John Peller, jpeller@aidschicago.org or (312) 334-0932. We are grateful to Project Inform and San Francisco AIDS Foundation for their assistance developing these comments.